

# NASA COMPETITIVE SOURCING PROGRAM

## FREQUENTLY ASKED QUESTIONS (General)

### **I. Competitive Sourcing Background Information**

#### **What is Competitive Sourcing? Isn't it the same as outsourcing?**

Competitive Sourcing is about conducting public-private competitions as a way of improving performance and efficiency in the government. A competition involves comparing the performance of the government organization with that of a private sector organization using cost, quality and/or other criteria.

Outsourcing is the actual contracting out of an activity. Outsourcing can be the result of a public-private competition if private industry wins.

Conducting a public-private competition is a highly structured process to ensure that both the private and public sectors compete on a level playing field. A competition determines if agency business requirements can be met at a minimum cost to taxpayers without compromise to quality or performance. Used carefully, it can be one of the most effective tools for improving performance and cost-efficiencies – regardless of who wins the cost competition. This ability to reform through competition is why Competitive Sourcing is one of the five elements of the President's Management Agenda.

#### **Why is NASA doing Competitive Sourcing?**

The Federal Activities Inventory Reform Act (FAIR) of 1998 as implemented by OMB Circular A-76 (Rev. May 2003) requires that Federal agencies annually provide the OMB and the Congress with a list of commercial functions performed by the Government. The President's Management Agenda requires the agency to have a plan for competing the commercial functions that are determined to be good candidates, based upon their availability from the private sector.

#### **Was the NSSC caused by Competitive Sourcing?**

The NSSC was conceived as a cross cutting consolidation activity and was approved by NASA senior management. Rather than contract with a private company for the commercial activities performed at the NSSC, NASA elected to provide NASA civil servants with the opportunity to compete against the private sector. This competition is subject to the rules of OMB Circular A-76, which establishes the process for public-private competitions.

#### **Are there FTE reduction goals or targets associated with Competitive Sourcing?**

No. There are no pre-set FTE reduction goals. The focus of competitive sourcing is not to mechanically reduce government workers, but to determine who can perform the requirements more efficiently and effectively. The competition process may change the amount of staff needed to deliver the service or product even if a function is retained in-house. The scope and nature of the changes required are a result of the process and are not to be guided by any predetermined expectations.

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### **How does competitive sourcing differ from privatization?**

Some think competitive sourcing is synonymous with privatization. Competitive sourcing is a method for cost comparison. It does not always result in contracting the work out. A competitive sourcing activity is subject to the rules of OMB Circular A-76 (revised May 2003) and involves a decision process to determine who can efficiently provide high quality services. Competitive sourcing allows government employees to compete for work alongside private sector employees.

Privatization is the process of changing a government program to private management, control and/or ownership. Under privatization, the government no longer retains responsibility or control over the delivery of the privatized goods or services.

## **II. Federal Activities Inventory Reform (FAIR) Act**

### **What is the FAIR Act?**

The Federal Activities Inventory Reform (FAIR) Act of 1998 (P.L. 105-270) requires the head of each executive agency to submit to OMB by June 30 of each year a list of activities performed by federal government employees that are commercial in nature. Additionally, OMB Circular A-76 (revised May 2003) requires each executive agency to submit an inventory of inherently governmental activities. (see below). For each commercial activity listed, the agency must identify when it first appeared on the inventory, the number of FTEs required to perform the function, and the employee responsible for the Agency's FAIR Act inventory activity. The Director of OMB must review the list.

After OMB has approved the inventory, each executive agency head will submit a copy of the inventory to Congress, and OMB will publish it in the *Federal Register* for public review. Any interested party may challenge an omission or inclusion of a particular activity in the inventory. NASA's 2003 FAIR Act Inventory is provided on:

<http://competitivesourcing.nasa.gov/>

### **How does the FAIR Act relate to A-76?**

Essentially, the FAIR Act inventory is the planning document from which candidates are selected for A-76 (public-private) competitions. The FAIR Act Inventory should fairly, accurately, and completely represent an agency's requirements in meeting its mission. For those commercial activities identified on the inventory that an agency deems could be performed by the private sector, OMB Circular A-76 requires that an executive agency must use a competitive process to select the appropriate source to perform the commercial activities. Whether or not a commercial activity is sourced through the

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private sector, or through the public sector, the A-76 process ensures that the process is realistic, fair, and transparent.

### **What is a commercial activity?**

Commercial activities are recurring services that can be performed by the private sector – for example, activities that are listed in the yellow pages. Commercial activities fall into two categories:

activities performed in-house by Federal (civil servant) personnel,

contracted activities provided by contractor personnel. OMB defines commercial activities as anything that can be, could be, or should be contracted, or

activities performed by another federal agency through a fee-for-service agreement.

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### **What is an inherently governmental activity?**

An inherently governmental activity is an activity so intimately related to the public interest of the United States that it requires Federal employees to perform these functions. Inherently governmental activities include those activities that require either the exercise of discretion in applying Government authority or the making of value judgments in making decisions for the Government.

### **Will every function listed in the inventory be competed?**

No. All commercial activities must be inventoried under the provisions of the FAIR Act and OMB Circular A-76. However, not all commercial activities performed by Federal employees must be competed.

### **What recourse do affected employees have to challenge the way that their functions have been classified in the FAIR Act inventory?**

Interested parties, including current employees and their unions, can challenge the classification of an activity as inherently governmental or commercial or the application of reason codes. Any challenge must be made in writing within 30 working days of the date a notice is published in the Federal Register by OMB that the inventory is available.

## **III. NASA Shared Services Center Specific Questions**

### **Who is working on the government bid to try to keep the work in-house?**

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Before the public announcement, the Agency Tender Official (ATO), Lisa May, was appointed by the Competitive Sourcing Official to lead the government proposal effort. She has recruited a team of government personnel and their representatives who are technical and functional experts in their area and will assist in developing the agency tender. The tender will be their best effort at creating a Most Efficient Organization (MEO).

### **What if the commercial proposals are no good, does that mean that things will stay the same as they are now?**

If there were no acceptable proposals received from industry we would still evaluate the Agency tender for implementation.

### **Who might be contacting me, since it is the work I do that is being competed?**

Team members from the MEO and private sector offerors (contractors) may contact you about how you currently perform your job. Any firm or individual requesting specific information about budget, your organizational staffing, or operations should be referred to the Contracting Officer, Jim Becker. He can be reached at (202) 358-0462, or email [james.becker-1@nasa.gov](mailto:james.becker-1@nasa.gov). If you are approached in any manner by a prospective offeror about post-Federal employment, then you must notify your supervisor in writing, and should contact the Contracting Officer immediately.

### **What happens if the government wins the competition, but then doesn't perform very well at doing the work?**

OMB Circular A-76 requires that the MEO or other public service provider be treated the same for performance purposes as any commercial provider. The NASA Contracting Officer (CO) would issue a Letter of Obligation to the MEO with performance expectations clearly stated. If the government organization does not meet the required standards, a request to cure the deficiency would be issued by the CO.

### **Who will be the official in charge of the contract or agreement with the new NSSC office?**

Rick Arbuthnot has been appointed as the Executive Director of the NSSC.

### **What will happen to the current employees that are performing the work if the government doesn't win the competition?**

This depends on the Center where the employees currently work, and the activities that they perform. If the contractor is hiring people for similar job, the employee may have the "right of first refusal" (see question below). Your Center may also offer placement services, retraining, or other employment assistance. Check with your Human Resources department for further details.

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**I understand that if the government doesn't win the competition, the affected government employees have something called the "right of first refusal." What does that mean?**

If a private sector entity wins the competition for the NSSC, the Right of First Refusal requires that they offer qualified federal employees the right of first refusal for job vacancies. This right extends to both directly affected federal employees in the function and outside the function who are directly affected by the conversion to a commercial provider. The responsibility for determining the qualifications of the employees rests with the provider. The Right of First Refusal is in the Federal Acquisition Regulation, Part 52.207-3, and is required by OMB Circular A-76 Attch B, paragraph D.6.f.(1)(b).

**If I'm an inherently government employee working in one of the activities being competed under the NSSC, does that mean I will not be affected by the competition?**

The inherently government classification refers to the activity performed, not the individual. There will be some inherently governmental activities that will become part of the NSSC. They may be similar to the activity that you currently perform at a NASA Center. Inherently governmental activities will not be part of the work available for bid. Instead, if they will become part of the NSSC, the jobs associated with those activities will be advertised within NASA and selection will be similarly to other job openings.